

Chapter 1

DEPARTMENT OF MENTAL HEALTH

330.1100 Definitions.

Sec. 100. The definitions in sections 100a to 100d apply to this act unless the context requires otherwise. Other definitions applicable to specific chapters are found in those chapters.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1990, Act 124, Imd. Eff. June 26, 1990 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1100a Definitions; A to E.

Sec. 100a. (1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

(a) Communication.

(b) Self-care.

(c) Home living.

(d) Social skills.

(e) Community use.

(f) Self-direction.

(g) Health and safety.

(h) Functional academics.

(i) Leisure.

(j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

(6) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(7) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(8) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 433 or 469a. Assisted outpatient treatment includes case management services to provide care coordination. Assisted outpatient treatment may also include 1 or more of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(9) "Board" means the governing body of a community mental health services program.

(10) "Board of commissioners" means a county board of commissioners.

(11) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

(12) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(13) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the accreditation council for graduate medical education or the American osteopathic association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(15) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, that provides examination, evaluation, and referrals for minors, including emergency referrals, that provides or facilitates treatment for minors, and that has been certified by the department.

(16) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(17) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(18) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment. (see also administrative rule 330.7003)

(20) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(21) "Department" means the department of community health.

(22) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity

designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(23) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(24) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(25) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(26) "Director" means the director of the department or his or her designee.

(27) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(28) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

(a) Severely mentally impaired.

(b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under subsection (1) of R 340.1758 of the Michigan administrative code or in a program designed for the severely mentally impaired or severely multiply impaired.

(29) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.

(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual's judgment is so impaired that he or she is unable to understand the need for treatment and, in the opinion of the mental health professional, his or her continued behavior as a result of the mental illness, developmental disability, or emotional disturbance can reasonably be expected in the near future to result in physical harm to the individual or to another individual.

(30) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1998, Act 497, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012

330.1100b Definitions; F to N.

Sec. 100b. (1) "Facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility.

(2) "Family" as used in sections 156 to 161 means an eligible minor and his or her parent or legal guardian.

(3) "Family member" means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.

(4) "Federal funds" means funds received from the federal government under a categorical grant or similar program and does not include federal funds received under a revenue sharing arrangement.

(5) "Functional impairment" means both of the following:

(a) With regard to serious emotional disturbance, substantial interference with or limitation of a minor's achievement or maintenance of 1 or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills.

(b) With regard to serious mental illness, substantial interference or limitation of role functioning in 1 or more major life activities including basic living skills such as eating, bathing, and dressing; instrumental living skills such as maintaining a household, managing money, getting around the community, and taking prescribed medication; and functioning in social, vocational, and educational contexts.

(6) "Guardian" means a person appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

(7) "Hospital" or "psychiatric hospital" means an inpatient program operated by the department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under section 137.

(8) "Hospital director" means the chief administrative officer of a hospital or his or her designee.

(9) "Hospitalization" or "hospitalize" means to provide treatment for an individual as an inpatient in a hospital.

(10) "Incapacitated" means that an individual, as a result of the use of alcohol or other drugs, is unconscious or has his or her mental or physical functioning so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety or is endangering the health and safety of the public.

(11) "Individual plan of services" or "plan of services" means a written individual plan of services developed with a recipient as required by section 712.

(12) "Intellectual disability" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:

(a) Valid assessment considers cultural and linguistic diversity, as well as differences in communication and behavioral factors.

(b) The existence of limitation in adaptive skills occurs within the context of community environments typical of the individual's age peers and is indexed to the individual's particular needs for support.

(c) Specific adaptive skill limitations often coexist with strengths in other adaptive skills or other personal capabilities.

(d) With appropriate supports over a sustained period, the life functioning of the individual with an intellectual disability will generally improve.

(13) "Licensed facility" means a facility licensed by the department under section 137 or an adult foster care facility.

(14) "Licensed psychologist" means a doctoral level psychologist licensed under section 18223(1) of the public health code, 1978 PA 368, MCL 333.18223.

(15) "Medical director" means a psychiatrist appointed under section 231 to advise the executive director of a community mental health services program.

(16) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(17) "Minor" means an individual under the age of 18 years.

(18) "Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

(19) "Neglect" means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, a community mental health services program, or a licensed hospital; or an employee or volunteer of a service provider under contract with the department, a community mental health services program, or a licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014 ;-- Am. 2014, Act 200, Imd. Eff. June 24, 2014

330.1100c Definitions; P to R.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state. For the purposes of sections 408 and 427, peace officer also includes an officer of the United States secret service with the officer's consent and a police officer of the veterans' administration medical center reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. Peer review evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the department.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 276, 408, or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not an arrest.

(8) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(9) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the accreditation council for graduate medical education or the American osteopathic association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subdivision.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on March 28, 1996.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(10) "Psychologist" means an individual who is licensed or otherwise authorized to engage in the practice of psychology under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237, and who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, substance use disorder, or developmental disability.

(11) "Recipient" means an individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

(12) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(13) "Recovery" means a highly individualized process of healing and transformation by which the individual gains control over his or her life. Related services include recovery management, recovery support services, recovery houses or transitional living programs, and relapse prevention. Recovery involves the development of a new meaning, purpose, and growing beyond the impact of addiction or a diagnosis. Recovery may include the pursuit of spiritual, emotional, mental, or physical well-being.

(14) "Regional entity" means an entity established under section 204b to provide specialty services and supports.

(15) "Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

(16) "Resident" means an individual who receives services in a facility.

(17) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

(18) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2002, Act 589, Imd. Eff. Oct. 17, 2002 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 200, Imd. Eff. June 24, 2014 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1100d Definitions; S to W.

Sec. 100d. (1) "Service" means a mental health service or a substance use disorder service.

(2) "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

(a) A substance use disorder.

(b) A developmental disorder.

(c) "V" codes in the Diagnostic and Statistical Manual of Mental Disorders.

(3) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

(a) A substance use disorder.

(b) A developmental disorder.

(c) A "V" code in the Diagnostic and Statistical Manual of Mental Disorders.

(4) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received directly from the Medicaid program for personal care services for a resident, or payment received under the supplemental security income program.

(5) "Specialized program" means a program of services, supports, or treatment that are provided in an adult foster care facility to meet the unique programmatic needs of individuals with serious mental illness or developmental disability as set forth in the resident's individual plan of services and for which the adult foster care facility receives special compensation.

(6) "Specialized residential service" means a combination of residential care and mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are provided in the residence of the recipient, and that are part of a comprehensive individual plan of services.

(7) "State administered funds" means revenues appropriated by the legislature exclusively for the purposes provided for in regard to substance use disorder services and prevention.

(8) "State facility" means a center or a hospital operated by the department.

(9) "State recipient rights advisory committee" means a committee appointed by the director under section 756 to advise the director and the director of the department's office of recipient rights.

(10) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the

extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(11) "Substance use disorder" means chronic disorder in which repeated use of alcohol, drugs, or both, results in significant and adverse consequences. Substance use disorder includes substance abuse.

(12) "Substance use disorder prevention services" means services that are intended to reduce the consequences of substance use disorders in communities by preventing or delaying the onset of substance abuse and that are intended to reduce the progression of substance use disorders in individuals. Substance use disorder prevention is an ordered set of steps that promotes individual, family, and community health, prevents mental and behavioral disorders, supports resilience and recovery, and reinforces treatment principles to prevent relapse.

(13) "Substance use disorder treatment and rehabilitation services" means providing identifiable recovery-oriented services including:

(a) Early intervention and crisis intervention counseling services for individuals who are current or former individuals with substance use disorder.

(b) Referral services for individuals with substance use disorder, their families, and the general public.

(c) Planned treatment services, including chemotherapy, counseling, or rehabilitation for individuals physiologically or psychologically dependent upon or abusing alcohol or drugs.

(14) "Supplemental security income" means the program authorized under title XVI of the social security act, 42 USC 1381 to 1383f.

(15) "Transfer facility" means a facility selected by the department-designated community mental health entity, which facility is physically located in a jail or lockup and is staffed by at least 1 designated representative when in use according to chapter 2A.

(16) "Transition services" means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.

(17) "Treatment" means care, diagnostic, and therapeutic services, including the administration of drugs, and any other service for the treatment of an individual's serious mental illness, serious emotional disturbance, or substance use disorder.

(18) "Urgent situation" means a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

(19) "Wraparound services" means an individually designed set of services provided to minors with serious emotional disturbance or serious mental illness and their families that includes treatment services and personal support services or any other supports necessary to foster education preparedness, employability, and preservation of the child in the family home. Wraparound services are to be developed through an interagency collaborative approach and a minor's parent or guardian and a minor age 14 or older are to participate in planning the services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 200, Imd. Eff. June 24, 2014 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1102 Department; establishment.

Sec. 102. The department of mental health is established by section 400 of Act No. 380 of the Public Acts of 1965, being section 16.500 of the Michigan Compiled Laws.

History: 1974, Act 258, Eff. Aug. 6, 1975 **Compiler's Notes:** For renaming of the department of mental health to the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

330.1104 Director as head of department; authority; delegation; appointment of medical director of mental health services; clinical psychiatric decisions.

Sec. 104.(1) The head of the department is the director of mental health as provided in section 401 of the executive organization act of 1965, 1965 PA 380, MCL 16.501.

(2) All executive authority of and within the department is vested in the director, who may delegate that authority as he or she considers necessary or appropriate. Any authority that has by law been vested in any entity owned or operated by the department, or any employee of the department is exercisable by the director at his or her option. The director shall delegate authority for clinical decisions to appropriately trained clinical professionals. This subsection applies to each chapter of this act.

(3) The director shall appoint a medical director of mental health services who is an appropriately credentialed psychiatrist. The medical director shall do all of the following:

(a) Advise the director on mental health policy and treatment issues.

(b) Serve as a resource on mental health clinical matters to all divisions within the department, other state departments, and the mental health field.

(c) Promote the use of mental health care and treatment best practices that are scientifically validated and recovery oriented.

(4) Clinical psychiatric decisions regarding the admission, treatment, and discharge of psychiatric patients in state mental hospitals shall be made by qualified state hospital physicians or appropriately credentialed psychiatrists granted state hospital staff privileges under section 245.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1986, Act 287, Imd. Eff. Dec. 22, 1986 ;-- Am. 2006, Act 586, Imd. Eff. Jan. 3, 2007

330.1106 Director; appointment, term, and qualifications.

Sec. 106. (1) As provided in section 508 of Act No. 380 of the Public Acts of 1965, being section 16.608 of the Michigan Compiled Laws, the director shall be appointed by the governor by and with the advice and consent of the senate and shall serve at the pleasure of the governor.

(2) The director shall be a person with at least 5 years of previous executive experience in mental health or human services.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1981, Act 188, Imd. Eff. Dec. 28, 1981

330.1108 Director; compensation; restriction.

Sec. 108. (1) The director shall receive compensation prescribed by law, as provided in section 8(a) of Act No. 380 of the Public Acts of 1965, as amended, being section 16.108 of the Michigan Compiled Laws.

(2) The director shall not engage in any business, vocation, or employment other than his office, as provided in section 8(b) of Act No. 380 of the Public Acts of 1965, as amended.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1110 Citizens mental health advisory council.

Sec. 110. (1) A citizens mental health advisory council is established to advise and assist the director in developing and executing mental health policies and programs.

(2) The council shall consist of 12 members who shall be appointed by the governor. The term of office of each member shall be 2 years. A member shall be paid a reasonable per diem and reimbursed for necessary travel expenses for each meeting attended. A meeting shall be held at least once every 3 months, upon call of the director. The council shall annually, by majority vote, choose a chairperson from among its own membership.

(3) The composition of the citizens mental health advisory council shall be representative of primary consumers, family members, agencies and professionals having a working involvement with mental health services, and the general public. At least 4 members of the council shall be primary consumers or family members, and at least 2 of those 4 shall be primary consumers.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 **Compiler's Notes:** For transfer of powers and duties of the citizens mental health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

330.1112 Internal organization of department.

Sec. 112. As provided in section 7(a) of Act No. 380 of the Public Acts of 1965, being section 16.107 of the Michigan Compiled Laws, and except as is otherwise provided by law, the director with the approval of the governor is authorized to establish the internal organization of the department and to allocate and reallocate duties and functions to promote economic and efficient administration and operation of the department.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1113 Injury to employee as result of assault by recipient of mental health services; compensation and fringe benefits.

Sec. 113. A person employed by the department who is injured as a result of an assault by a recipient of mental health services shall receive his full wages by the department until workmen's compensation benefits begin and then shall receive in addition to workmen's compensation benefits a supplement from the department which together with the workmen's compensation benefits shall equal but not exceed the weekly net wage of the employee at the time of the injury. This supplement shall only apply while the person is on the department's payroll and is receiving workmen's compensation benefits and shall include an employee who is currently receiving workmen's compensation due to an injury covered by this section. Fringe benefits normally received by an employee shall be in effect during the time the employee receives the supplement provided by this section from the department.

History: Add. 1976, Act 414, Imd. Eff. Jan. 9, 1977

330.1114 Rules.

Sec. 114. (1) Subject to section 114a, as provided in section 9 of Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws, the director may promulgate rules as necessary to carry out the functions vested in the department.

(2) All modifications to rules that are needed to comply with the amendatory act that added this subsection shall be submitted to public hearing within 2 years after the effective date of that amendatory act.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1114a Applicability of provisions requiring or permitting rule promulgation.

Sec. 114a. If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court

ruling, any provision of this act that requires or permits the department to promulgate rules does not apply.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 **Compiler's Notes:** In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103 (2000).

330.1116 Powers and duties of department.

Sec. 116.(1) Consistent with section 51 of article IV of the state constitution of 1963, which declares that the health of the people of the state is a matter of primary public concern, and as required by section 8 of article VIII of the state constitution of 1963, which declares that services for the care, treatment, education, or rehabilitation of those who are seriously mentally disabled shall always be fostered and supported, the department shall continually and diligently endeavor to ensure that adequate and appropriate mental health services are available to all citizens throughout the state. To this end, the department shall have the general powers and duties described in this section.

(2) The department shall do all of the following:

(a) Direct services to individuals who have a serious mental illness, developmental disability, or serious emotional disturbance. The department shall give priority to the following services:

(i) Services for individuals with the most severe forms of serious mental illness, serious emotional disturbance, or developmental disability.

(ii) Services for individuals with serious mental illness, serious emotional disturbance, or developmental disability who are in urgent or emergency situations.

(b) Administer the provisions of chapter 2 so as to promote and maintain an adequate and appropriate system of community mental health services programs throughout the state. In the administration of chapter 2, it shall be the objective of the department to shift primary responsibility for the direct delivery of public mental health services from the state to a community mental health services program whenever the community mental health services program has demonstrated a willingness and capacity to provide an adequate and appropriate system of mental health services for the citizens of that service area.

(c) Engage in planning for the purpose of identifying, assessing, and enunciating the mental health needs of the state.

(d) Submit to the members of the house and senate standing committees and appropriation subcommittees with legislative oversight of mental health matters an annual report summarizing its assessment of the mental health needs of the state and incorporating information received from community mental health services programs under section 226. The report shall include an

estimate of the cost of meeting all identified needs. Additional information shall be made available to the legislature upon request.

(e) Endeavor to develop and establish arrangements and procedures for the effective coordination and integration of all public mental health services, and for effective cooperation between public and nonpublic services, for the purpose of providing a unified system of statewide mental health care.

(f) Review and evaluate the relevance, quality, effectiveness, and efficiency of mental health services being provided by the department and assure the review and evaluation of mental health services provided by community mental health services programs. The department shall establish and implement a structured system to provide data necessary for the reviews and evaluations.

(g) Implement those provisions of law under which it is responsible for the licensing or certification of mental health facilities or services.

(h) Establish standards of training and experience for executive directors of community mental health services programs.

(i) Support research activities.

(j) Support evaluation and quality improvement activities.

(k) Support training, consultation, and technical assistance regarding mental health programs and services and appropriate prevention and mental health promotion activities, including those that are culturally sensitive, to employees of the department, community mental health services programs, and other nonprofit agencies providing mental health services under contract with community mental health services programs.

(l) Support multicultural services.

(3) The department may do all of the following:

(a) Direct services to individuals who have mental disorders that meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and approved by the department and to the prevention of mental disability and the promotion of mental health. Resources that have been specifically appropriated for services to individuals with dementia, alcoholism, or substance abuse, or for the prevention of mental disability and the promotion of mental health shall be utilized for those specific purposes.

(b) Provide, on a residential or nonresidential basis, any type of patient or client service including but not limited to prevention, diagnosis, treatment, care, education, training, and rehabilitation.

(c) Operate mental health programs or facilities directly or through contractual arrangement.

(d) Institute pilot projects considered appropriate by the director to test new models and concepts in service delivery or mental health administration. Pilot projects may include, but need not be limited to, both of the following:

(i) Issuance of a voucher to a recipient of public mental health services in accordance with the recipient's individual plan of services and guidelines developed by the department.

(ii) Establishment of revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary in accordance with guidelines and procedures developed by the department related to the use, issuance, and accountability of revolving loans used for recipient housing.

(e) Enter into an agreement, contract, or arrangement with any individual or public or nonpublic entity that is necessary or appropriate to fulfill those duties or exercise those powers that have by statute been given to the department.

(f) Accept gifts, grants, bequests, and other donations for use in performing its functions. Any money or property accepted shall be used as directed by its donor and in accordance with law and the rules and procedures of the department.

(g) The department has any other power necessary or appropriate to fulfill those duties and exercise those powers that have been given to the department by law and that are not otherwise prohibited by law.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1990, Act 29, Imd. Eff. Mar. 13, 1990 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1998, Act 67, Eff. Dec. 19,

330.1116a Assisted outpatient treatment services; report.

Sec. 116a. (1) The department shall make available on the department's website an annual report concerning assisted outpatient treatment services in this state. The report shall include statewide information regarding the number of individuals receiving and completing assisted outpatient treatment and shall include the cost and benefit projections that are available concerning assisted outpatient treatment in this state.

(2) The report shall include all of the following information regarding petitions filed under section 433:

(a) The number of assisted outpatient treatment petitions filed.

(b) The number of court rulings on petitions filed under section 433 that resulted in an assisted outpatient treatment order.

(c) The number of court rulings on petitions filed under section 433 that did not result in an assisted outpatient treatment order.

(3) To the extent possible if resources are available, when evaluating the assisted outpatient treatment in this state, the department shall attempt to utilize expert assistance from outside entities, including, but not limited to, state universities.

History: Add. 2004, Act 499, Eff. Mar. 30, 2005

330.1118 Official name of facility; terminology.

Sec. 118. The department shall designate an official name for each of its facilities that is of sufficient size or scope. No official name shall contain terminology that from a public standpoint could be reasonably regarded as stigmatizing or denigrating.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1120 Official head of facility.

Sec. 120. The department shall designate an official head of each of its facilities that is of sufficient size or scope.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1122 Geographical service districts.

Sec. 122. The department may establish geographical service districts for its facilities which shall define the geographical area that will be serviced by a facility.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1124 Waiting lists for admissions.

Sec. 124.(1) The department shall establish waiting lists for admissions to state operated programs. Waiting lists shall be by diagnostic groups or program categories, age, and gender, and shall specify the length of time each individual has been on the waiting list from the date of the initial request for services.

(2) The department shall require that community mental health services programs maintain waiting lists if all service needs are not met, and that the waiting lists include data by type of services, diagnostic groups or program categories, age, and gender, and that they specify the length of time each individual has been on the waiting list from the date of the initial request for services. The order of priority on the waiting lists shall be based on severity and urgency of need. Individuals determined to be of equal severity and urgency of need shall be served in the order in which they applied for services.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1126 Admission or services appropriate to individual's condition or needs; duration of treatment.

Sec. 126. The department shall endeavor to ensure that no individual will be admitted to or provided services by a facility of the department or a facility of a community mental health services program unless the facility can provide treatment or services appropriate to the individual's condition and needs. The department shall also endeavor to ensure that an individual's course of treatment will be completed in the shortest practicable time.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1128 Center for forensic psychiatry.

Sec. 128. The department shall maintain under its jurisdiction an entity to be known as the center for forensic psychiatry. The center shall perform such services as are required by law and may, with the approval of the director of the department, perform any other service or activity, including research, that pertains to mental health and the criminal law.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1130 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. **Compiler's Notes:** The repealed section pertained to certification of a community mental health center.

330.1132 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. **Compiler's Notes:** The repealed section pertained to certification of mental retardation service facility.

330.1134. Psychiatric hospitals and psychiatric units; licensing; separate criteria for minors; coordination, cooperation, and agreements with state agencies; purpose.

Sec. 134. (1) The director shall establish a comprehensive system of licensing for psychiatric hospitals and psychiatric units in the state to protect the public by ensuring that these hospitals and units provide the facilities and the ancillary supporting services necessary to maintain a high quality of patient care. Separate criteria shall be developed for licensing hospital beds for minors.

(2) The director shall coordinate all functions within state government affecting psychiatric hospitals, and shall cooperate with other state agencies that establish standards or requirements for facilities providing mental health care to assure necessary, equitable, and consistent state regulation of these facilities without duplication of inspections or services. The director may enter into agreements with other state agencies to accomplish this purpose.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1988, Act 155, Imd. Eff. June 14, 1988 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1134a Employing, contracting, or granting clinical privileges to individuals; prohibitions; written consent; criminal history check; conditional employment or granting clinical privileges; false information; use of information obtained under subsection (3) or (4); condition of continued employment; failure to conduct criminal history check; establishment of automated fingerprint identification system database; electronic web-based system; definitions.

Sec. 134a.(1) Except as otherwise provided in subsection (2), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(ii) A felony involving cruelty or torture.

(iii) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iv) A felony involving criminal sexual conduct.

(v) A felony involving abuse or neglect.

(vi) A felony involving the use of a firearm or dangerous weapon.

(vii) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(ii) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iii) A misdemeanor involving criminal sexual conduct.

(iv) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(v) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(ii) A misdemeanor involving home invasion.

(iii) A misdemeanor involving embezzlement.

(iv) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1940 PA 300, MCL 257.601d.

(v) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(vi) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(vii) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(ii) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(iii) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year

immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of conviction, is under the age of 18.

(ii) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency according to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (5), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) until the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has conducted a criminal history check in compliance with this section or received criminal history record information in compliance with subsection (3) or (10). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a psychiatric facility or other facility defined in 42 USC 1396d(d) before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subdivision and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (13). An individual who is exempt under this subdivision is not limited to working within the psychiatric facility or other facility defined in 42 USC 1396d(d) with which he or she is employed by, under independent contract to, or granted clinical privileges on April 1, 2006 but may transfer to another psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility. If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) through (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), then he or she is no longer exempt and shall be terminated from employment or denied employment or clinical privileges.

(b) An individual who is under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) if he or she is not under the facility's control and the services for which he or she is contracted is not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allows for direct access to

the patients or residents but is not performed on an ongoing basis. This exception includes, but is not limited to, an individual who is under an independent contract with the psychiatric facility or other facility defined in 42 USC 1396d(d) to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a psychiatric facility or other facility defined in 42 USC 1396d(d) or a staffing agency and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the applicant has been the subject of a criminal history check conducted in compliance with this section, the applicant shall give written consent at the time of application for the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency to obtain the criminal history record information as prescribed in subsection (4) from the relevant licensing or regulatory department and for the department of state police to conduct a criminal history check under this section if the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is necessary, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall proceed in the manner required in subsection (4). A staffing agency that employs an applicant who regularly has direct access to or provides direct services to patients or residents under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) shall submit information regarding the criminal history check conducted by the staffing agency to the psychiatric facility or other facility defined in 42 USC 1396d(d) that has made a good-faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request shall be made in a manner prescribed by the department of state

police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make the written consent and identification available to the department of state police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established under federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the federal bureau of investigation charges a fee for conducting the criminal history check, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall pay the cost of the charge. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not seek reimbursement for a charge imposed by the department of state police or the federal bureau of investigation from the individual who is the subject of the criminal history check. A prospective employee or a prospective independent contractor covered under this section may not be charged for the cost of a criminal history check required under this section. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. The department of state police shall provide the results of the federal bureau of investigation determination to the department within 30 days after the request is made. If the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the federal bureau of investigation determination that resulted in a conviction, the department shall notify the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency and the applicant in writing of the type of crime disclosed on the written report of the criminal history check or the federal bureau of investigation determination without disclosing the details of the crime. Any charges imposed by the department of state police or the federal bureau of investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under this subsection. The notice shall include a statement that the applicant has a right to appeal the information relied upon by the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency regarding his or her employment eligibility based on the criminal history check. The notice shall also include information regarding where to file and describing the appellate procedures established under section 20173b of the public health code, 1978 PA 368, MCL 333.20173b.

(5) If a psychiatric facility or other facility defined in 42 USC 1396d(d) determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history check or criminal history record information under this section, the psychiatric facility or other facility defined in 42 USC 1396d(d) may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The psychiatric facility or other facility defined in 42 USC 1396d(d) requests the criminal history check or criminal history record information under this section upon conditionally employing or conditionally granting clinical privileges to the individual.

(b) The individual signs a statement in writing that indicates all of the following:

(i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) through (g) within the applicable time period prescribed by each subdivision respectively.

(ii) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(iii) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(iv) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statements under subparagraphs (i) through (iii), his or her employment or clinical privileges will be terminated by the psychiatric facility or other facility defined in 42 USC 1396d(d) as required under subsection (1) unless and until the individual appeals and can prove that the information is incorrect.

(v) That he or she understands the conditions described in subparagraphs (i) through (iv) that result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(c) Except as otherwise provided in this subdivision, the psychiatric facility or other facility defined in 42 USC 1396d(d) does not permit the individual to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment or clinical privileges. If required under this subdivision, the psychiatric facility or other facility defined in 42 USC 1396d(d) shall provide on-site supervision of an individual in the facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. A psychiatric facility or other facility defined in 42 USC 1396d(d) may permit an individual in the facility on a conditional basis under this subsection to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision if all of the following conditions are met:

(i) The psychiatric facility or other facility defined in 42 USC 1396d(d), at its own expense and before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to patients or residents under this section.

(ii) Before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(iii) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed or granted conditional clinical privileges under this subsection.

(6) The department shall develop and distribute a model form for the statements required under subsection (5)(b) and (c). The department shall make the model form available to psychiatric facilities or other facility defined in 42 USC 1396d(d) subject to this section upon request at no charge.

(7) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (5), and the information under subsection (3) or report under subsection (4) does not confirm the individual's statement under subsection (5)(b)(i) through (iii), the psychiatric facility or other facility defined in 42 USC 1396d(d) shall terminate the individual's employment or clinical privileges as required by subsection (1).

(8) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (5)(b)(i) through (iii) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(9) A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall use criminal history record information obtained under subsection (3) or (4) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (5) and (7). A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency or an employee of the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not disclose criminal history record information obtained under subsection (3) or (4) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3) or (4) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both. Except for a knowing or intentional release of false information, a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(10) Upon consent of an applicant as required in subsection (3) and upon request from a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency of the information in the manner prescribed in subsection (4). Until the federal bureau of investigation implements an automatic notification system similar to the system required of the state police under subsection (13) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order

issued by the department, a covered health or staffing agency facility may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 12-month period.

(b) The applicant has been continuously employed by a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility or the staffing agency since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility.

(c) The applicant can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall do each of the following:

(a) Agree in writing to report to the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency immediately upon being arraigned for 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon being the subject of a substantiated finding of neglect, abuse, or misappropriation of property as described in subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(12) In addition to sanctions set forth in this act, a licensee, owner, administrator, or operator of a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(13) In collaboration with the department of state police, the department of technology, management, and budget shall establish and maintain an automated fingerprint identification system database that would allow the department of state police to store and maintain all fingerprints submitted under this section and would provide for an automatic notification if and when a subsequent criminal arrest fingerprint card submitted into the system matches a set of

fingerprints previously submitted under this section. Upon notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(14) The department shall maintain an electronic web-based system to assist psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies required to check relevant registries and conduct criminal history checks of its employees and independent contractors, and individuals granted privileges and to provide for an automated notice to those psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies for those individuals inputted in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to \$100.00 for access to the electronic web-based system under this section.

(15) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Convicted" means either of the following:

(i) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(ii) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(c) "Covered health facility" means a nursing home, county medical care facility, hospice, hospital that provides swing bed services, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or home health agency.

(d) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 20173a of the public health code, 1978 PA 3658, MCL 333.20173a, or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b.

(e) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(f) "Home health agency" means a person certified by medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Independent contract" means a contract entered into by a health facility or agency with an individual who provides the contracted services independently or a contract entered into by a health facility or agency with a staffing agency that complies with the requirements of this section to provide the contracted services to the psychiatric facility or other facility defined in 42 USC 1396d(d) on behalf of the staffing agency.

(h) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395kkk-1.

(i) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified staffing for psychiatric facilities or other facility defined in 42 USC 1396d(d), including independent contractors.

(j) "Under the facility's control" means an individual employed by or under independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) for whom the psychiatric facility or other facility defined in 42 USC 1396d(d) does both of the following:

(i) Determines whether the individual who has access to patients or residents may provide care, treatment, or other similar support service functions to patients or residents served by the psychiatric facility or other facility defined in 42 USC 1396d(d).

(ii) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

(E) The compensation the individual receives for performing his or her duties.

(F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 27, Eff. Apr. 1, 2006 ;-- Am. 2008, Act 445, Imd. Eff. Jan. 9, 2009 ;-- Am. 2008, Act 446, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 293, Imd. Eff. Dec. 16, 2010 ;-- Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014

330.1135 Rules; MCL 330.1134 to 330.1150 inapplicable to adult foster care facilities or child care organizations.

Sec. 135.(1) Subject to section 114a, the director shall promulgate rules to define psychiatric hospitals and psychiatric hospital services to clearly differentiate between the active intensive care expected in psychiatric hospitals or psychiatric units and that care which is characteristically expected in general hospitals, long-term care facilities, or residential facilities.

(2) Sections 134 to 150 do not cover adult foster care facilities or child care organizations licensed under 1973 PA 116, MCL 722.111 to 722.128.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1136 Administration of MCL 330.1134 to 330.1150; rules.

Sec. 136. The director shall administer sections 134 through 150 and promulgate rules to implement the purposes of sections 134 through 150 for the maintenance and operation of psychiatric hospitals and psychiatric units as necessary to enable state or private facilities, or both, to qualify for federal funds available for patient care or for construction or remodeling of facilities. The rules shall be promulgated according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1137. Psychiatric hospital and psychiatric unit, license required; disclosures; provisional license; violation; penalty; annual licensure; fees; receipt of completed application; issuance of license within certain time period; report; “completed application” defined.

Sec. 137. (1) A person shall not construct, establish, or maintain a psychiatric hospital or psychiatric unit or use the terms psychiatric hospital or psychiatric unit without first obtaining a license. The director shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in a psychiatric hospital or psychiatric unit. If the psychiatric hospital or psychiatric unit is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee. A license shall be granted for no longer than 1 year after the date of issuance, unless otherwise provided in sections 134 to 150. The director may issue a provisional license for 1 year to provide a licensee or applicant time to undertake remedial action to correct programmatic or physical plant deficiencies. A provisional license may be renewed for not longer than 1 additional year. A violation of this section is a misdemeanor and is punishable by a fine of not more than \$1,000.00 for each violation.

(2) Annual licensure of psychiatric hospitals and psychiatric units shall be implemented by March 28, 1997. License fees shall be prorated according to the period of time that the license will be in force.

(3) The department shall issue an initial license under this section not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. The 6-month period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license.

(4) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based on the fact that the application fee was refunded or discounted under this subsection.

(5) The director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with issues relating to mental health. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period described in subsection (3).

(b) The number of applications rejected.

(c) The number of applicants not issued a license within the 6-month time period and the amount of money returned to licensees under subsection (4).

(6) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1976, Act 55, Eff. Mar. 31, 1977 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2004, Act 259, Imd. Eff. July 23, 2004 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1138. Original or annual license; inspection and approval by bureau of fire services.

Sec. 138. Before the issuance of an original or annual license, a psychiatric hospital or psychiatric unit shall be inspected by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b. A license shall not be issued until the bureau of fire services approves the hospital or unit.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2006, Act 207, Imd. Eff. June 19, 2006 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1139.amended License and permit fees.

Sec. 139. (1) Until October 1, 2019, an applicant for a license under this act shall submit to the department with the application form, or license renewal, a license fee of \$500.00 plus \$10.00 per patient bed.

(2) The license fee for a provisional license is the same as the fee for a license. When the requirements for licensure are met, the provisional license shall be replaced by a license without an additional fee for the balance of the 1-year period.

(3) An applicant for a construction permit shall submit to the department with the application form a permit fee of \$300.00.

(4) If an application for a license or permit is denied, or if a license or permit is revoked before its expiration date, the fees paid to the department shall not be refunded.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1140 Premises of applicant or licensee; right of entry.

Sec. 140. The director or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or their designated representatives may enter upon the premises of an applicant or licensee at a reasonable time for the purpose of determining whether the applicant or licensee meets the requirements of sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 2006, Act 207, Imd. Eff. June 19, 2006

330.1141 Record of patient.

Sec. 141. A licensee shall maintain a complete record for each patient. The record shall contain at a minimum a written assessment and individual plan of services for the patient, a statement of the purpose of hospitalization or treatment, a description of any tests and examinations performed, and a description of any observations made and treatments provided.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1141a Exchange of confidential mental health and substance use disorder information; development of standard release form; workgroup; considerations; availability; electronic transmission.

Sec. 141a. (1) On or before January 1, 2015, the department shall develop a standard release form for exchanging confidential mental health and substance use disorder information for use by all public and private agencies, departments, corporations, or individuals that are involved with treatment of an individual experiencing serious mental illness, serious emotional disturbance, developmental disability, or substance use disorder. All parties described in this subsection shall honor and accept the standard release form created by the department under this section for the purpose for which it was created unless the party is subject to a federal law or regulation that provides more stringent requirements, as defined under 45 CFR 160.202, for the protection of individually identifiable health information.

(2) Beginning on the effective date of the amendatory act that added this section, the department shall create a workgroup to implement the provisions of this section.

(3) The workgroup created in subsection (2) shall meet periodically, as the department considers necessary, but not less than once a year.

(4) In developing the standard release form under subsection (1), the department shall comply with all federal and state laws relating to the protection of individually identifiable health information and shall consider all of the following:

(a) Existing and potential technologies that could be used to securely transmit a standard release form.

(b) The national standards pertaining to electronic release of confidential information, including protecting a patient's identity and privacy in accordance with the health insurance portability and accountability act of 1996, Public Law 104-191.

(c) Any prior release forms and methodologies used in this state.

(d) Any prior release forms and methodologies developed by federal agencies.

(5) The standard release form shall be available in both electronic and paper form.

(6) Any transmission of a standard release form via electronic media may be accepted as an original by the party receiving the standard release form.

History: Add., Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996;-- 2014, Act 129, Imd. Eff. May 22, 2014

330.1142 Compliance with nondiscriminatory laws.

Sec. 142. The governing body of a facility licensed under sections 134 through 150 shall certify to the department of mental health that its policies, procedures, and practices are consistent with

the Americans with disabilities act of 1990, Public Law 101-336, 104 Stat. 327, the rehabilitation act of 1973, Public Law 93-112, 87 Stat. 355, the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws, and the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws. The governing body shall direct the administrator of the facility to take such action as is necessary to assure that the facility adheres to all of the nondiscriminatory laws described in this section.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1143. Governing body of facility; responsibilities.

Sec. 143. The governing body of a facility licensed under sections 134 through 150 is responsible for the operation of the facility, for the selection of the medical staff, and for the quality of care rendered by the facility. The governing body shall cooperate with the director of mental health in the enforcement of sections 134 through 150, and shall insure that physicians and other personnel for whom a state license or registration is required are currently licensed or registered.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1143a.amended Review of professional practices; scope; confidentiality; disclosure.

Sec. 143a. (1) The owner, operator, and governing body of a psychiatric hospital or psychiatric unit licensed under this chapter or operated by the department shall assure that licensed, registered, or certified mental health professionals admitted to practice in the facility are organized in order to enable an effective review of the professional practices in the psychiatric hospital or psychiatric unit for the purpose of improving the quality of patient care provided in the facility. This review shall include the quality and appropriateness of the care provided.

(2) The records, data, and knowledge collected for or by individuals or committees assigned a review function under subsection (1) are confidential, shall be used only for the purposes of review, are not public records, and are not subject to court subpoena.

(3) This section does not prevent disclosure of individual case records under section 748 or disclosure required by federal law to the agency designated by the governor to provide protection and advocacy under section 931.

History: Add. 1990, Act 167, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1143b Patient referral; money or other consideration prohibited; violation; penalty.

Sec. 143b.(1) A licensee, a community mental health services program, or a person acting on behalf of or for the benefit of a licensee or community mental health services program shall not

pay or give or offer to pay or give any money or other consideration or thing of value, directly or indirectly, to a person in return for a referral of a patient.

(2) A licensee or community mental health services program that violates this section, or on whose behalf or for whose benefit a person violates this section, shall for the first violation be subject to an administrative fine equal to 3 times the amount paid for the referral. A licensee that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time shall have its license suspended for at least 1 month under section 144. A community mental health services program that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time is subject to an administrative fine equal to 6 times the amount paid for the referral and to an immediate certification review by the department.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1144 Suspension, denial, or revocation of license; notice.

Sec. 144. The director, after notice to the applicant or licensee, may suspend, deny, or revoke a license if he finds that there is a substantial failure to comply with the requirements of sections 134 through 150. The notice shall be by certified mail or by personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the applicant or licensee shall be afforded a hearing before the director or his designee.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1145 Hearing.

Sec. 145. The hearing authorized by this section shall be in accordance with rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended. A complete record shall be kept of the proceedings, and shall be transcribed when requested by an interested party. The interested party shall pay the cost of preparing a transcript. On the basis of the hearing, or on the default of the applicant or licensee, the director shall issue, deny, revoke, or suspend a license. A copy of the director's determination shall be sent by certified mail to, or served personally upon, the applicant or licensee. The revocation or suspension of a license shall become final 30 days after the determination is mailed or served, unless the applicant or licensee, within the 30-day period, appeals the decision to the circuit court. The director may not suspend, deny, or revoke a license for failure to show a need for a hospital.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1146 Appeal.

Sec. 146. A person aggrieved by a decision of the director or bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, may appeal to the circuit court, requesting an order reversing the decision. The appeal shall be based upon the whole record, and

the circuit court shall consider whether the decision is authorized by law and supported by competent evidence.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 2006, Act 207, Imd. Eff. June 19, 2006

330.1147 Exemptions.

Sec. 147. Except as otherwise provided in sections 134a and 149b, psychiatric hospitals or units operated by the state or federal government are exempt from sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1990, Act 13, Eff. May 28, 1990 ;-- Am. 1991, Act 40, Imd. Eff. June 11, 1991 ;-- Am. 2006, Act 27, Imd. Eff. Feb. 17, 2006

330.1148. Use of term “psychiatric hospital” or “psychiatric unit.”

Sec. 148. The terms psychiatric hospital or psychiatric unit shall not be used to describe or refer to an institution or program, unless the institution or program is licensed by the director according to sections 134 through 150.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1149. Action to restrain or prevent construction, establishment, management, or operation of psychiatric hospital or unit without license.

Sec. 149. The director may maintain action in the name of the people of the state to restrain or prevent the construction, establishment, management, or operation of a psychiatric hospital or psychiatric unit without a license.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1149b. Compliance with MCL 333.13801 to 333.13832.

Sec. 149b. A psychiatric hospital or psychiatric unit operated or licensed by the department shall comply with the medical waste regulatory act, part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

History: Add. 1990, Act 13, Eff. May 28, 1990 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

330.1150 Violation.

Sec. 150. A person who violates sections 134 through 150 or a rule authorized by sections 134 through 150 is guilty of a misdemeanor.

History: 1974, Act 258, Eff. Aug. 6, 1975

330.1152 Adult foster care facility; noncompliance with contract, agreement, or arrangement; notice; suspension, revocation, or cancellation.

Sec. 152. The director, after notice to the operator or owner of an adult foster care facility may suspend, revoke, or cancel a contract, agreement, or arrangement entered into under section 116(3)(e) if he or she finds that there has been a substantial failure to comply with the requirements as set forth in the contract, agreement, or arrangement. The notice shall be by certified mail or personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the operator or owner shall be afforded a hearing before the director or his or her designee. The contract, agreement, or arrangement shall not be suspended, revoked, or canceled until the director notifies the operator or owner in writing of his or her findings of fact and conclusions following such hearing.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997

330.1153 Rules for placement of mentally ill or developmentally disabled adults into community based dependent living settings or programs; rules for certification of specialized programs; inspection of facility; inspection report and certification, denial of certification, revocation, or certification with limited terms; reinspection; notice; contracts; licensure or placement pending promulgation of rules.

Sec. 153.(1) Subject to section 114a, the department shall promulgate rules for the placement of adults who have serious mental illness or developmental disability into community based dependent living settings by department agencies, community mental health services programs, and by agencies under contract to the department or to a community mental health services program. The rules shall include, but not be limited to, the criteria to be used to determine a suitable placement and the specific agencies responsible for making decisions regarding a placement.

(2) Subject to section 114a, the department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to individuals with serious mental illness or developmental disability. The rules shall provide for an administrative appeal to the department of a denial or limitation of the terms of certification under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(3) Upon receipt of a request from an adult foster care facility for certification of a specialized program, the department shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of this section and rules promulgated under this section. The department shall provide the department of social services with an inspection report and a certification, denial of certification, revocation, or certification with limited terms for the proposed specialized program. The department shall reinspect a certified specialized program not less than once biennially and notify the department of social services in the same manner as for the initial certification. In carrying out this subsection, the department may contract with a community mental health services program or any other agency.

(4) This section does not prevent licensure of an adult foster care facility or the placement of individuals with serious mental illness or developmental disability into community based dependent living settings pending the promulgation by the department of rules under subsection (1) or (2).

History: Add. 1986, Act 256, Imd. Eff. Dec. 9, 1986 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1155 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. **Compiler's Notes:** The repealed section pertained to definitions in MCL 330.1155 to 330.1161.

330.1156 Family support subsidy program; establishment; purpose.

Sec. 156. The director of the department shall establish a family support subsidy program. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for eligible minors, thus facilitating the return of eligible minors from out-of-home placements to their family homes, and preventing or delaying the out-of-home placement of eligible minors who reside in their family homes.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1157 Rules; creation and contents of application forms.

Sec. 157.(1) Subject to section 114a, the department shall promulgate rules to implement sections 156 to 161. The rules shall include an adoption by reference of the standards and criteria used by the department of education in the identification of eligible minors. The department shall also consult with the department of education on the implementation and coordination of the family support subsidy program.

(2) The department shall create application forms and shall make the forms available to community mental health services programs for determining the eligibility of applicants. The forms shall require at least the following information, which constitutes the eligibility criteria for receipt of a family subsidy:

(a) A statement that the family resides in this state.

(b) Verification that the eligible minor meets the definition in section 100a.

(c) A statement that the eligible minor resides, or is expected to reside, with his or her parent or legal guardian or, on a temporary basis, with another relative.

(d) A statement that the family is not receiving a medical subsidy for the eligible minor under section 115h of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115h of the Michigan Compiled Laws.

(e) Verification that the taxable income for the family for the year immediately preceding the date of application did not exceed \$60,000.00, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than \$60,000.00.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1158 Effect of approval of application; contract; report.

Sec. 158.(1) If an application for a family support subsidy is approved by the community mental health services program, all of the following apply:

(a) A family support subsidy shall be paid to the parent or legal guardian on behalf of an eligible minor, and shall be considered a benefit to the eligible minor. An approved subsidy shall be payable as of the first of the next month after the community mental health services program receives the written application.

(b) A family support subsidy shall be used to meet the special needs of the family. Except as otherwise provided in this chapter, this subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs.

(c) Except as provided in section 160(2), a family support subsidy shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Michigan for an adult recipient living in the household of another, as formulated under federal regulations as of July 1, 1984. Increases to this rate shall be determined annually by legislative appropriation. In addition, the parent or legal guardian of an eligible minor who is in an out-of-home placement at the time of application may receive a 1-time, lump-sum advance payment of twice the monthly family subsidy amount for the purpose of meeting the special needs of the family to prepare for in-home care.

(2) A community mental health services program may contract with the department for services that provide for the payment of family support subsidies through the department.

(3) The parent or legal guardian who receives a family support subsidy shall report, in writing, at least the following information to the community mental health services program:

(a) Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.

(b) Immediately, the occurrence of any event listed in section 159.

(c) Immediately, if the parent or legal guardian requests termination of the family support subsidy.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1158a Family support subsidy payments not alienable.

Sec. 158a.Family support subsidy payments shall not be alienable by assignment, sale, garnishment, execution, or otherwise, and in the event of bankruptcy shall not pass to or through a trustee or any other person acting on behalf of creditors.

History: Add. 1984, Act 186, Imd. Eff. July 3, 1984

330.1159 Termination or denial of family support subsidy; hearing.

Sec. 159.(1) The family support subsidy shall terminate if 1 or more of the following occur:

(a) The eligible minor dies.

(b) The family no longer meets the eligibility criteria in section 157(2).

(c) The eligible minor attains the age of 18 years.

(2) The family support subsidy may be terminated by a community mental health services program if a report required by section 158(3) is not timely made or a report required by section 158(3)(a) is false.

(3) If an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1160 Family support subsidies; payment; adjustment of amounts.

Sec. 160.(1) Family support subsidy payments shall be paid from accounts as appropriated by the legislature.

(2) The department, after notifying the governor and the house and senate appropriations committees, may adjust the amounts available for family support subsidies by equal apportionment in the event available revenues are insufficient to cover the obligations. The department shall not reduce the amount of the monthly payment by more than an aggregate of 25% in 1 fiscal year without written approval of the house and senate appropriations committees.

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983

330.1161 Annual evaluation of program.

Sec. 161. In conjunction with community mental health services programs, the department shall conduct annually and forward to the governor and the house and senate appropriations committees, and the senate and house committees with legislative oversight of human services and mental health, an evaluation of the family support subsidy program that shall include, but is not limited to, all of the following:

(a) The impact of the family support subsidy program upon children covered by this act in facilities and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.

(b) Case reviews of families who voluntarily terminate participation in the family support subsidy program for any reason, particularly when the eligible minor is placed out of the family home, including the involvement of the department and community mental health services programs in offering suitable alternatives.

(c) Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.

(d) The efforts to encourage program participation of eligible families.

(e) The geographic distribution of families receiving subsidy payments and, to the extent possible, eligible minors presumed to be eligible for family support subsidy payments.

(f) Programmatic and legislative recommendations to further assist families in providing care for eligible minors.

(g) Problems that arise in identifying eligible minors through diagnostic evaluations performed under rules promulgated by the department of education.

(h) The number of beds reduced in state facilities and foster care facilities serving severely mentally, multiply, and autistic impaired children when the children return home to their natural families as a result of the subsidy program.

(i) Caseload figures by eligibility category as described in section 100a(28).

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1998, Act 497, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012

330.1162 Office of multicultural services; creation; director.

Sec. 162. The office of multicultural services is created within the department. The office shall be headed by a director.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1163 Standing committee on multicultural services; appointment of members; purpose.

Sec. 163.A 13-member standing committee on multicultural services shall be appointed by the director of the department to advise the office and the department on matters pertaining to multicultural services.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990

330.1164 Duties of office.

Sec. 164. The office shall do all of the following:

- (a) Assess the mental health needs of multicultural populations in the state.
- (b) Recommend to the director of the department treatment methods and programs that are sensitive and relevant to the unique linguistic, cultural, and ethnic characteristics of multicultural populations.
- (c) Provide consultation, technical assistance, training programs, and reference materials to agencies and organizations serving multicultural populations.
- (d) Promote awareness of multicultural mental health concerns, and encourage, promote, and aid in the establishment of multicultural services.
- (e) Disseminate information on available multicultural services.
- (f) Provide adequate and effective opportunities for multicultural populations to express their views on departmental policy development and program implementation.
- (g) Request adequate funds for multicultural services from the director of the department.

History: Add. 1990, Act 124, Imd. Eff. June 26, 1990